

INVISIBLE VICTIMS: THE ENDURING LEGACY OF ROMA PERSECUTION FROM NUREMBERG TO TODAY

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Abstract: International criminal law has played a pivotal role in addressing atrocities, yet it has often failed to fully confront systemic discrimination against marginalized groups. The legacy of the Nuremberg Trials - widely recognized as the foundation for modern international justice - offers a striking example. Although the Roma were among those persecuted by the Nazi regime through internment, forced sterilization, and extermination, their suffering was notably absent from the indictments and legal narratives produced by the Tribunal.

Key words: Roma, discrimination, Nuremberg Trials, human dignity

“To deny people their human rights is to challenge their very humanity.”

- Nelson Mandela

1. Introduction

The Nuremberg Trials are widely recognized as the cornerstone of modern international criminal law, representing an unprecedented effort to reconcile mass atrocity with legal accountability. They established principles of individual criminal responsibility, crimes against humanity, and the universality of human rights, and became a global reference point for postwar justice (Douglas, 2001; Koskeniemi, 2002). Yet, alongside their historical significance lies a profound paradox: the very universality the Trials claimed to uphold was accompanied by critical exclusions. Among the groups systematically targeted by the Nazi regime, the Roma - subjected to forced sterilization, internment, and systematic extermination - were largely invisible in the legal narratives and indictments presented at Nuremberg (Kenrick and Puxon 2009; Lewy, 2000). Their absence is not merely a historical footnote but a revealing indication of the limits and structural biases of international law.

This paper argues that the Roma's exclusion should be understood not only as a moral failure but also as a failure of legal memory. Human dignity, a principle central to the Nuremberg legal framework, is meaningful only when it is recognized and recorded; when

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certain populations are omitted, their dignity is undermined in both legal and historical terms (Kateb, 2011; Butler, 2004). By exploring human dignity as a form of legal memory, this study examines how Nuremberg selectively constructed narratives of suffering, deciding which victims would be formally acknowledged and preserved in the historical record (Fricker, 2007; Trouillot, 1995). Roma's invisibility exposes the epistemic and structural limitations of law, revealing a persistent tension between aspirational universality and selective recognition.

Furthermore, the implications of Nuremberg's omissions extend beyond historical critique. Situating the Roma genocide within broader discussions of human dignity, collective memory, and contemporary international criminal law highlights the ongoing impact of historical silences on marginalized communities (Fraser, 2008; Moyn, 2010). Through archival analysis, comparative legal scholarship, and theoretical perspectives on memory and recognition, this paper demonstrates that fully realizing human dignity in international law requires a conscious effort to integrate marginalized voices - not merely as an ethical imperative but as a fundamental component of justice itself. In this sense, examining Roma exclusion at Nuremberg offers insights into how contemporary institutions might confront historical silences and create more inclusive frameworks for recognition and accountability (Arendt, 1951; Spivak, 1988).

As a researcher, I am conscious that engaging with histories of suffering requires humility and responsibility. This work is not only an academic inquiry but also a gesture of recognition toward those whose voices were denied by history.

In 2011, the European Commission against Racism and Intolerance (ECRI) at the Council of Europe adopted a General Recommendation to combat anti-Gypsyism and defined anti-Gypsyism as follows: "antigypsyism is a specific form of racism, an ideology based on racial superiority, a form of dehumanization and institutional racism nurtured by historical discrimination, which is expressed, among other things, by violence, hate speech, exploitation, stigmatization and the most blatant types of discrimination"

1.1. Methodological note

This study employs an interdisciplinary and critically reflexive methodology that combines archival research, legal analysis, and theoretical inquiry through the lens of human dignity and memory studies. Archival materials and secondary historical sources on the Nuremberg Trials are examined to trace the mechanisms through which legal recognition was selectively granted or denied, particularly concerning the Roma genocide.

The analysis draws on critical legal theory and philosophical perspectives on recognition, memory, and exclusion to uncover the epistemic structures that rendered Roma suffering invisible within formal legal discourse. In adopting this approach, the research recognizes that law is not merely a neutral system of norms but also a producer of historical memory and moral hierarchies.

Moreover, the methodology is guided by an ethical commitment to inclusivity and recognition: rather than speaking about the Roma experience in abstract terms, it seeks to engage with Roma testimonies, oral histories, and cultural narratives as vital sources of legal memory. This approach acknowledges the limitations inherent in archival silences

while affirming that the recovery of marginalized voices constitutes a form of restorative justice. By combining legal inquiry with personal testimony, it seeks to reveal how remembrance itself becomes a form of justice.

2. Historical Context: Roma and the Nazi Regime

Thomas Acton traces the origins of anti-Gypsyism to the fifteenth century, when the Roma first arrived in large numbers in Western Europe and faced hostility and persecution from local authorities and populations. He shows how anti-Gypsyism has evolved from scientific racism and popular racism into a discourse influenced by political and economic interests, as well as by the lack of recognition and representation of Roma identity and culture. (Acton, 2012)

The Roma, often referred to as Gypsies in historical documents, experienced persecution under the Nazi regime that was both systematic and brutal. This period, known in Roma communities as the *Porajmos* ("the Devouring"), involved internment, forced sterilization, and mass extermination. Estimates suggest that between 220,000 and 500,000 Roma were killed across Nazi-occupied Europe (Kenrick & Puxon, 2009). The Roma were racialized as "asocial" and "inferior," making them targets of state-sponsored violence that sought to erase their communities entirely (Zimmermann, 2015). Concentration and labor camps such as Auschwitz-Birkenau housed the so-called "Gypsy family camp," where thousands of Roma, including women and children, were murdered in a single liquidation operation on August 2, 1944 (Lewy, 2000).

Despite the availability of documentation - police records, sterilization reports, and survivor testimonies - Roma's persecution was rarely highlighted in the Nuremberg indictments. Prosecutors prioritized crimes against Allied nationals and political dissidents, leaving Roma suffering marginalized and peripheral within the emerging legal record (Douglas, 2001; Fraser, 2012, p. 159-182). This omission reflects broader patterns of epistemic exclusion: the Roma were not only victims of horrific crimes but were also denied acknowledgment in the very systems intended to document and prosecute atrocity.

The consequences of this historical invisibility extend beyond the trials themselves. By failing to formally recognize Roma victimhood, Nuremberg shaped a collective legal memory that excluded an entire community from the moral and juridical narrative of justice (Fricker, 2007; Trouillot, 1995). This omission has continued repercussions today, influencing contemporary legal processes, policy-making, and social recognition. Roma communities continue to experience discrimination and marginalization across Europe, often with limited access to legal remedies or reparative measures (European Union Agency for Fundamental Rights (FRA), 2021; (Chang & Rucker-Chang, 2020). Understanding the historical context of their persecution is therefore essential for examining how international law constructs memory, recognition, and human dignity.

Racism ought to be recognized as a violation of human rights on the same grounds that racial discrimination is. The basis for outlawing racial discrimination in international law rests upon the idea that it negates the core human rights of dignity, self-determination, and equality. (The Universal Declaration of Human Rights, 1948)

2.1. Roma testimonies

While legal and historical archives provide crucial documentation of Roma persecution, survivor testimonies offer an indispensable dimension to understanding the human reality that legal frameworks often fail to capture. These voices - frequently marginalized or forgotten - constitute acts of resistance against erasure, restoring the dignity that historical silence has denied.

Roma survivor Ceija Stojka, who was deported as a child to Auschwitz and later to Ravensbrück, recalled: "*We were not considered human beings... even the dogs had more rights than we did*" (Stojka, 2012, p. 14).

Her words reveal not only the brutality of Nazi persecution but also the existential dehumanization that framed Roma identity during the Porajmos. The legal invisibility of such suffering at Nuremberg mirrors this same denial of personhood.

Similarly, Raymond Gurême, a French Roma survivor who escaped from internment and later joined the Resistance, reflected: "*We had no names, no numbers, only the silence of those who did not see us*" (Gurême and Rivoallan, 2011, p. 42). Gurême's testimony underscores the enduring consequences of historical invisibility - both within the camps and in the postwar legal imagination.

Roma testimonies collected by historians such as Zoni Weisz and Adele Radočaj further illustrate how remembrance functions as an assertion of humanity. Weisz, who lost his entire family in the Holocaust, addressed the German Bundestag in 2011: "We were part of the same genocide, but for decades, we were not part of the memory" (Weisz, 2011).

Such reflections exemplify the concept of "restorative dignity" - the idea that recognition through testimony itself constitutes a form of justice. Incorporating these narratives into legal and historical scholarship bridges the divide between juridical memory and lived experience. It also fulfills what Gayatri Spivak (Spivak, 1988, p. 271–313) termed the ethical responsibility to "let the subaltern speak."

In this sense, Roma survivor testimonies insist that justice must not only be rendered through verdicts, but through the ongoing remembrance of every silenced voice.

3. The Nuremberg Framework and the Politics of Recognition

The International Military Tribunal at Nuremberg established three core principles: individual criminal responsibility, crimes against humanity, and the notion that certain acts violated the conscience of humanity. These principles emphasize civilization, morality, and human dignity as central legal values. However, as Koskenniemi notes, this universality was framed within a Western moral and political context, which determined who was legible as a victim in the emerging international legal order. (Koskenniemi, 2002)

Judith Butler's concept of *differential grievability* illuminates this selective recognition: certain lives are acknowledged as deserving of mourning and legal protection, while others are rendered invisible (Butler, 2004). At Nuremberg, Roma lives were not legible within the moral and juridical frameworks employed by the Tribunal. Hannah Arendt's discussion of "the right to have rights" further underscores this issue: the Roma, often stateless and marginalized, lacked the recognition necessary to be fully represented in

postwar legal structures. (Arendt, 1951)

The exclusion of Roma narratives can thus be seen as an *institutionalized silence*, echoing Trouillot's concept of "silencing the past" (Trouillot, 1995). This form of silence is not merely a passive omission; it actively constructs hierarchies of memory and recognition, shaping which experiences are documented and preserved within legal and historical records. Nuremberg's selective memory set a precedent for how international law would value certain victims over others, embedding structural biases into the foundations of global justice.

3.1. Human dignity as legal memory

Human dignity has often been celebrated as the moral foundation of postwar international law, appearing prominently in the 1948 Universal Declaration of Human Rights and subsequent international instruments. However, the Nuremberg Trials reveal that the application of dignity was neither universal nor automatic. As Kateb notes, dignity was framed largely through a European philosophical lens, reflecting specific cultural assumptions about whose humanity was legible and worthy of legal protection. In practice, dignity became a selective principle: while the suffering of some groups was codified into law, others - like Roma - remained largely invisible (Kateb, 2011).

Reframing human dignity as a form of *legal memory* allows us to see this selective recognition not merely as omission but as an active process of constructing legal and historical narratives. Legal institutions do more than adjudicate crimes; they decide whose experiences are recorded, acknowledged, and remembered. When certain groups are omitted, their suffering is effectively erased from the collective legal conscience (Fricker, 2007; Trouillot, 1995). Roma's exclusion from Nuremberg exemplifies this dynamic: despite facing systematic extermination, their suffering was not memorialized in the legal proceedings, thus undermining the very dignity that international law claims to uphold.

This approach highlights the epistemic dimension of dignity. As Butler argues, some lives are recognized as worthy of mourning and legal recognition, while others are overlooked or excluded from such recognition (Butler, 2004). The Roma, historically marginalized and often stateless, were rendered ungrievable, their victimhood excluded from legal memory. Human dignity, in this sense, is not merely an inherent quality but a recognition that must be enacted through institutional acknowledgment. Without such recognition, legal frameworks risk perpetuating structural injustices even as they claim to protect universal rights.

Moreover, understanding dignity as legal memory emphasizes the temporal dimension of justice. Nuremberg was not only a court but also a project of historical documentation, a site where memory and law intersected to produce authoritative accounts of suffering. The selective memory established there has had long-lasting effects on international criminal jurisprudence. Contemporary tribunals and courts continue to grapple with similar challenges: whose suffering is documented, whose voices are included in proceedings, and whose narratives shape legal outcomes (Drumbl, 2012; Moyn, 2010). By examining dignity as memory, we can see that legal recognition is both retrospective - acknowledging past atrocities - and forward-looking- shaping ongoing understandings of

justice, accountability, and human worth.

Finally, this framework also provides a basis for reparative approaches. If dignity is inseparable from recognition, then restoring it requires both symbolic and material interventions. Memory-based reparations, public acknowledgment of historical silences, and participatory mechanisms that allow marginalized groups to document and interpret their own experiences become essential (Barkan, 2000; Nussbaum, 2011). For the Roma, integrating their experiences into the narrative of international criminal law is not only a matter of historical justice but also a vital step in ensuring that contemporary institutions embody the universality and inclusivity that Nuremberg initially failed to achieve.

4. Structural Legacy: Invisibility and Contemporary Justice

The long-term effects of Roma exclusion from Nuremberg are evident in contemporary justice systems. Roma communities in Europe continue to face discrimination, forced evictions, and social marginalization, while legal remedies remain limited (European Union Agency for Fundamental Rights (FRA), 2021). Even when Roma individuals or communities pursue human rights claims, they encounter procedural obstacles that reflect the historical invisibility embedded in international legal practice (Chang & Rucker-Chang, 2020).

A commitment to human dignity that neglects historical and structural marginalization reproduces the very hierarchies it seeks to address. Achieving justice, in Fraser's terms, requires participatory parity: all communities must have the capacity to contribute as equals to the formation of legal norms and narratives (Fraser, 2008). For the Roma, this entails actively addressing the epistemic exclusions inherited from Nuremberg.

4.1. Reimagining International Justice: Restorative Dignity and Memory inclusion

Addressing historical and structural exclusions requires a reimagining of international criminal law - one that emphasizes the restoration of dignity alongside accountability. The omissions at Nuremberg reveal that legal recognition and memory are inseparable: justice is incomplete if it fails to acknowledge all victims. Contemporary institutions must therefore actively integrate marginalized voices, not as an afterthought, but as a central component of justice.

One key approach involves *memory-based reparations*, which combine symbolic acknowledgment with practical measures. This includes formally recognizing historical exclusions, incorporating Roma experiences into legal education and archival records, and supporting Roma-led documentation projects (Barkan, 2000). These steps do more than provide material or procedural remedies - they affirm the humanity and dignity of those previously ignored.

Participation is equally crucial. Legal processes should allow marginalized groups to contribute directly to investigations, fact-finding, and reparative initiatives. This approach addresses past silences by giving communities the ability to represent and interpret their own experiences within legal frameworks (Spivak, 1988, p. 271–313). When victims' voices are included, their suffering is acknowledged and preserved, ensuring that justice

is not limited to the experiences of the historically dominant or visible groups.

Finally, international criminal law must be viewed as a living archive of collective memory. The historical erasure of Roma experiences at Nuremberg underscores the danger of incomplete remembrance (Levi, 1986). By embedding acknowledgment into legal processes, contemporary institutions can ensure that all victims are documented, commemorated, and represented. This approach transforms international law into a framework that both adjudicates wrongdoing and safeguards the dignity of historically silenced communities, ensuring that justice is truly inclusive.

5. Conclusion

The exclusion of the Roma from the Nuremberg Trials illuminates a profound tension at the heart of international criminal law: the law's aspirational universality versus its selective enactment. While the Tribunal sought to codify principles of accountability and human dignity after the Holocaust, it simultaneously constructed hierarchies of recognition that rendered some victims invisible. Interpreting human dignity as a form of legal memory makes this tension visible: it shows that law does not merely adjudicate crimes but also creates narratives about whose suffering counts and whose experiences are preserved in collective memory. In the case of the Roma, this selective memory constituted a structural injustice, denying recognition and shaping the moral framework through which subsequent international legal practices would operate.

Addressing this historical omission requires more than acknowledgment; it necessitates a reimagining of international justice as both retrospective and forward-looking. Legal institutions must actively integrate marginalized voices, not as an afterthought, but as a constitutive element of justice. Memory-based reparations, participatory frameworks, and the inclusion of Roma experiences in legal archives are critical steps toward restoring dignity that was historically denied. Such measures would not only address past exclusions but also create institutional precedents for more inclusive recognition in future legal proceedings.

Moreover, expanding the concept of dignity to encompass recognition challenges contemporary international law to confront its own epistemic limitations. By reflecting on how selective legal memory has shaped justice, and by integrating the lived testimonies of those historically silenced, scholars and practitioners can begin to restore the human dimension that law alone cannot capture. The Roma genocide, long absent from the legal memory of Nuremberg, thus becomes both a moral and methodological lesson: justice that neglects human voices is incomplete. Only by embedding remembrance - both legal and personal - within our frameworks of accountability can human dignity be meaningfully realized for all communities, particularly those historically silenced.

Remembering the Roma victims is not only an act of scholarship but an act of care. It reminds us that justice begins with the willingness to listen - even to voices the law once refused to hear.

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